THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 10th day of October,2007

W.P.No.21280 of 1999

Between:-

APSRTC rep. by its
Depot Manager, Midhani
Depot, Hyderabad … Petitioner

and

Sri G. Krishna, … Respondent

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.21280 of 1999

ORAL ORDER:

This Writ Petition is filed challenging the Award dated 28-1-1999 made in I.D.No.157 of 1995 on the file of Labour Court-III, Hyderabad.

Petitioner is the Management and respondent is the workman. It appears, in the year 1994, a complaint was received from Ambedkar Youth Association, Jillellaguda, Saroornagar Mandal, Hyderabad complaining that the respondent obtained employment fraudulently by producing a fake caste certificate showing that he belongs to Scheduled Caste community. Thereafter, a charge sheet dated 28-12-1994 was issued framing the following charge:

> "For having secured job of driver in APSRTC by submitting a false caste certificate of Tahsildar, Hayathnagar, stating that you belong to Scheduled Caste (Mala) whereas you belong to Backward Class (Goud) at the time of recruitment for the post of Driver, which constitutes misconduct in terms of Regulations 28(xxii) of APSRTC Employees' (Conduct) Regulations,1963"

After calling for explanation and conducting a detailed enquiry into the said charge, the disciplinary authority passed an Order of removal from service on 24-7-1995. Aggrieved by the same, respondent-workman filed a claim petition under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before the Labour Court-III, Hyderabad.

It was the contention of the respondent-workman before the Labour Court that no fair and proper opportunity was given to him to defend himself and the Security Officer, who said to have submitted a report after conducting enquiry, was not examined nor the Mandal

Revenue Officer, who had stated that the respondent belongs to some other community i.e. Gouda, was called and examined in the enquiry. Further, absolutely, there was no evidence to show that the respondent-workman belongs to Gouda community. Therefore, the order of removal was bad in law. A detailed counter was filed by the Management-petitioner herein denying the allegations made by the workman. It is asserted that the workman was appointed as a Driver with effect from 1-7-1985 and worked in various Depots. On receiving a complaint from Ambedkar Youth Association stating that the workman belongs to Gouda community, whereas he obtained employment as Driver claiming his social status as S.C. (sub-caste 'Mala'), the concerned Mandal Revenue Officer was addressed in the matter. The Mandal Revenue Officer, vide his letter dated 21-10-1994 confirmed that local enquiries revealed that the workman belongs to Gouda community (Backward Class). Based on the same, a charge sheet was issued on 28-12-1994 and an enquiry was conducted. Since the charge was proved and as he obtained employment by playing fraud, he was removed from service and as such, he is not entitled for any relief as sought for in the I.D.

Before the Labour Court, no oral evidence was let in by either party. However, on behalf of the petitioner-Management, Exs.M1 to M19 were marked. After a detailed consideration of the entire evidence on record, the Labour Court though found initially that the enquiry was valid, went into the facts and held that in view of the fact that certain witnesses were not examined, the charges were not proved and thus directed reinstatement of the workman with all attendant benefits, but with 25% of back wages. Aggrieved by the same, the present Writ Petition is filed.

While admitting the Writ Petition, in view of the pleadings of the

petitioner-Management that the respondent-workman has already been reinstated into service, only payment of back wages was stayed.

Sri K. Madhava Reddy, learned counsel appearing for the petitioner, strenuously contended that the Labour Court having held that enquiry is valid ought not to have gone into the other aspect, as to whether somebody was examined before the Enquiry Officer or not. Further, this is a case where on the basis of a fake certificate, the respondent obtained employment. Therefore, the matter was referred to the Mandal Revenue Officer and the Mandal Revenue Officer, on his enquiries, has submitted a report that the workman belongs to 'Gouda' community. As such, there need not be any further evidence to show that the certificate furnished by the respondent, at the time of obtaining employment in the A.P. State Road Transport Corporation, is a non-genuine one.

Whereas, Sri G. Ravi Mohan, learned counsel appearing for the respondent-workman, strenuously that no opportunity of any kind was given to the respondent and in a case of this nature, it is for the revenue authorities to conduct a detailed enquiry into the matter and either confirm or cancel the caste certificate produced by the respondent at the time of obtaining employment. Petitioner-management has assumed jurisdiction of the revenue authorities. Under the Andhra Pradesh (S.C., S.T. & B.Cs) Regulation of Issue of Community Certificates Act,1993 and the Rules made thereunder, this is not permissible. Merely because the Mandal Revenue Officer has submitted a report saying that his enquiries revealed that the respondent belongs to Gouda community itself does not invalidate the certificate obtained by him at the time of his appointment into the service of the Corporation. Apart from the above, the Mandal Revenue Officer and the Security Officer, who purported to have enquired into

the matter, were not examined before the Enquiry Officer. The Labour Court, in fact, ought to have awarded full back wages and instead of that, while granting reinstatement, continuity of service and attendant benefits, also granted 25% of back wages. Therefore, no interference can be made by this Court with such a reasoned Award passed by the Labour Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

At the outset, I am in full agreement with the submissions made by the learned counsel for the respondent-workman that the petitioner-management has no business to enquire into the social status (caste) of the respondent. It was open for the petitioner-management to refer such a certificate to the Mandal Revenue Officer for his consideration and cancellation, if necessary, as per the provisions of the A.P. (S.C., S.T. and B.Cs) Regulation of Issue of Caste Certificates Act,1993 and the Rules made thereunder and not otherwise. In this case, merely on the basis of a report purported to have been submitted by the Mandal Revenue Officer, the charge sheet was issued. The Mandal Revenue Officer enquired into the matter behind the back of the petitioner and no notice of any kind was issued to him by the Mandal Revenue Officer as to conducting of enquiry etc. Further, during the enquiry, the Mandal Revenue Officer as well as the Security Officer basing on whose reports, the entire enquiry was conducted, were not examined before the Enquiry Officer. Therefore, looking from any angle, the order of removal passed by the petitioner-management is not valid. As such, the Labour Court held that the order of removal is bad in law and the respondent-workman is entitled for reinstatement with continuity of service and 25% of back wages. However, in a case of this nature, in

view of the procedural lapses, the respondent-workman was directed to be reinstated into service by the Labour Court. In the facts and circumstances, I am of the opinion that awarding of 25% of back wages is not just and proper. Therefore, the Award passed by the Labour Court is liable to be modified and is modified to be read as 'reinstatement of the workman with continuity of service and attendant benefits, but without any back wages.'

Accordingly, the Writ Petition is disposed of. No order as to costs.

10-10-2007

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